

Extradition to US for drugs-smuggling trial found lawful

In today's **Chamber judgment**¹ in the cases of [Matthews and Johnson v. Romania](#) (application nos. 19124/21 and 20085/21) and [Lazăr v. Romania](#) (no. 20183/21) the European Court of Human Rights held, unanimously:

that there had been **no violation of Article 5 § 1 (f) (right to liberty and security)** of the European Convention on Human Rights, and

that the complaint under **Article 3 (prohibition on inhuman or degrading treatment)** was **inadmissible**.

The case concerned the applicants' detention and the Romanian courts' ordering their extradition to the United States in March 2021. All three applicants were wanted for, among other charges, racketeering, drugs and money-laundering offences.

The Court found, in particular, that the applicants had failed to show that they were at risk of life imprisonment without parole if extradited to the US, noting the sentencing practice in similar cases before trial courts in the US.

Principal facts

The applicants, Murray Matthews, Marc Johnson and Marius Lazăr, are, respectively, a New Zealand, a British and a Romanian national. They were born respectively in 1989, 1966 and 1973. They are members or associates of the Hells Angels motorcycle gang.

All three applicants were arrested on 19 November 2020 in connection with various crimes and their detention was ordered. The charges were brought following a six-month undercover operation in 2020 in which the applicants had attempted to purchase 400 kg of cocaine from a US Drug Enforcement Administration agent posing as a drug dealer. The cocaine was to be smuggled into the US from Peru and then transported via shipping containers from Texas to Romania and New Zealand. Mr Matthews and Mr Lazăr were also charged with having asked the agent to murder two members of a rival biker gang and then made preparations in that connection.

In January 2021 the US authorities requested that the applicants be extradited for trial for, among other charges, racketeering, drugs and money-laundering offences. The applicants argued that they would be subject to a life sentence without the possibility of parole if found guilty in the US. The US authorities provided information to the contrary.

Extradition was ordered by the Court of Appeal, with reference to the European Court's case-law. The court held that Mr Matthews's potential life sentence would be *de jure* and *de facto* reducible and that in any case life imprisonment did not appear to be grossly disproportionate. As regards Mr Johnson, the court stated that a sentence of life imprisonment was fully justified, and that there was no requirement for Romania to request any guarantees that such a sentence would be commuted. It held that Mr Lazăr's potential life sentence would be *de jure* and *de facto* reducible,

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

and that, as regards a fair trial in the US, his attendance was sought precisely to uphold his defence rights.

The final decisions were made in March 2021 by the High Court. Detention was ordered until the applicants' surrender to the US authorities.

At the applicants' request, the European Court indicated interim measures on 15 (Mr Matthews) and 19 April (Mr Lazăr), and 5 May 2021 (all three applicants), stating that the applicants should not be extradited for the duration of the proceedings before the Court. Those measures were lifted on 12 December 2022 following a request by the Romanian Government in the light of the Grand Chamber's judgment in [Sanchez-Sanchez v. the United Kingdom](#) (no. 22854/20).

The applicants complained about the length of time in detention, but the High Court ruled that the 180-day limit on pre-trial detention was not applicable to detention pending surrender. Nevertheless, on 8 June, 19 November and 9 December 2021, Mr Lazăr, Mr Matthews and Mr Johnson were respectively released under judicial supervision.

On 15 December 2022 the national courts ordered the arrest of the applicants with a view to enforcing the extradition order. The order has not been enforced to date in respect of Mr Matthews and Mr Johnson and both are currently wanted by the Romanian police and warrants have been issued for their arrest.

On 16 January 2023 Mr Lazăr was surrendered to US authorities at Bucharest Henri Coandă International Airport.

Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of inhuman or degrading treatment), Article 5 §§ 1 and 4 (right to liberty and security) the applicants alleged, in particular, that their extradition to the US had/would put them at risk of life imprisonment without parole. They also complained that their detention pending extradition had not been lawful.

The applications were lodged with the European Court of Human Rights on 14 (Mr Matthews) and 19 April (the other two applicants) 2021 respectively.

The Government of the United Kingdom and two non-governmental organisations, the Aire Centre and Hands off Cain, were given leave to intervene by the President of the Section.

Judgment was given by a Chamber of seven judges, composed as follows:

Gabriele Kucsko-Stadlmayer (Austria), *President*,
 Tim Eicke (the United Kingdom),
 Faris Vehabović (Bosnia and Herzegovina),
 Armen Harutyunyan (Armenia),
 Anja Seibert-Fohr (Germany),
 Ana Maria Guerra Martins (Portugal),
 Sebastian Rădulețu (Romania),

and also Andrea Tamietti, *Section Registrar*.

Decision of the Court

Article 3

The Court reiterated that the case of [Trabelsi v. Belgium](#), on which the applicants relied, had been expressly overruled in the *Sanchez-Sanchez* judgment.

The Court held that the applicants had failed to provide evidence that there was a real risk of their being sentenced to life imprisonment without parole if extradited to the US. It referred to the fact that the applicants' charges would be mainly concerned with drug trafficking, crimes for which less than 2% of convictions in the Eastern District of Texas received a life sentence; the applicants' having a clean criminal record; and their having the right to appeal if convicted.

The Court therefore rejected the complaints under Article 3 as manifestly ill-founded.

Article 5

The applicants alleged, in particular, that their detention had been unlawful after the expiry of the relevant detention time-limits.

The Court qualified as detention the periods in which the applicants had been under house arrest along with those in the remand system.

It held that Mr Matthews's and Mr Johnson's detention from their arrest until the decisions ordering their extradition had been in accordance with the law and justifiable owing to proceedings that had to be carried out with a view to extradition. Concerning from the 30-day statutory period following the setting of their surrender date until their placement under judicial supervision, the Court found their detention lawful even in the absence of fixed time-limits, as the application of the force majeure legal provision by the domestic courts, in the context of the interim measure indicated by the Court preventing the applicants' handover to the US authorities, was not arbitrary and was accompanied by procedural safeguards. Moreover, the detention had not been unreasonably long, unjustified or ordered in bad faith.

The period following Mr Lazăr's rearrest on 28 December 2022 until his surrender followed a period of judicial supervision, itself following a previous period of 202 days' detention. Although the law governing detention pending extradition had changed, providing now for a maximum 180-day detention until surrender, the Court found that the domestic courts' interpretation of the relevant domestic law to the applicant's case, in the context of the authorities' international cooperation obligations, was in accordance with the law and that his detention was justified and not arbitrary.

The Court overall considered that the applicants' detention with a view to their extradition and surrender had been in accordance with **Article 5 § 1 (f)** and there had been **no violation**.

As regards the complaints under **Article 5 § 4**, the applicants had been able to "take proceedings" to have the lawfulness of their detention reviewed by a court. In those proceedings the Romanian courts had, among other actions, verified compliance with surrender time-limits. The Court noted that the national courts had been particularly diligent, delivering decisions on lawfulness of detention within a few days or weeks at two levels of jurisdiction. These complaints were therefore manifestly ill-founded and the Court **rejected** them.

Other articles

Mr Johnson and Mr Lazăr also complained, under Articles 3 and 5, of disproportionate sentencing, of being surrendered to the US authorities despite not being in a good state of health (Mr Lazăr only), and of shortcomings in the extradition-warrant procedure. The Court found no evidence of any appearance of a violation and rejected these parts of the applications.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.